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Searches and Seizures

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Under both the New York State and United States Constitutions, an individual is considered “seized” when he or she has been detained and his or her freedom to walk away has been restrained.¹³² Additionally, both constitutions require that such a seizure must be accompanied by a reasonable suspicion of criminality.¹³³ Absent this reasonable suspicion, both constitutions require the suppression of any evidence obtained during the seizure.¹³⁴

People v. Yancy¹³⁵
(decided July 14, 1995)

Appellants, Derek Yancy and Joseph Chapman, challenged the denial of motions to suppress physical evidence seized by police officers during warrantless searches of each appellant’s car.¹³⁶ The ground for appeal was based on a violation of the New York State Constitutional¹³⁷ and the Fourth Amendment¹³⁸ protections from unreasonable searches and seizures.¹³⁹ The New York Court of Appeals, in a consolidated opinion, denied their motions and held that in both instances the police officers had probable

discretion based upon the mere right to request information, a Pandora’s box of pretextual police stops would be opened.” *Id.*

132. *See* Terry v. Ohio, 392 U.S. 1, 17 (1968); People v. Ingle, 36 N.Y.2d 413, 418, 330 N.E.2d 39, 43, 369 N.Y.S.2d 67, 72 (1975).

133. *See* People v. May, 81 N.Y.2d 725, 728, 609 N.E.2d 113, 115, 593 N.Y.S.2d 760, 762 (1992).

134. *See* Wesley, 73 N.Y.2d at 354-55, 538 N.E.2d at 78, 540 N.Y.S.2d at 759.

135. 86 N.Y.2d 239, 654 N.E.2d 1233, 630 N.Y.S.2d 985 (1995).

136. *Id.* at 242, 654 N.E.2d at 1234, 630 N.Y.S.2d at 986.

137. N.Y. CONST. art. I, § 12. This section provides in relevant part: “The right of the people to be secure in their person, houses, papers and effects, against unreasonable searches and seizures, shall not be violated . . . but upon probable cause . . .” *Id.*

138. U.S. CONST. amend. IV. The Fourth Amendment provides in relevant part: “The right of the people to be secure in their person, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated . . . but upon probable cause . . .” *Id.*

139. *Yancy*, 86 N.Y.2d at 243, 654 N.E.2d at 1234, 630 N.Y.S.2d at 986.

cause to search each defendant's car.¹⁴⁰ Therefore, there was no violation of the defendants' constitutional right to be free from unreasonable searches and seizures.

People v. Chapman

"The screeching tires of a cream colored Audi turning onto Broadway at a high rate of speed, forcing three pedestrians to jump out of the crosswalk, caught the attention of two uniformed police officers sitting in their marked police car."¹⁴¹ The police officers followed the car.¹⁴² After the Audi ran a stop sign, the officers pulled the vehicle over and approached the car from both sides.¹⁴³ One of the police officers alerted his partner to the fact that he observed an open shopping bag filled with vials and caps on the floor behind the passenger.¹⁴⁴ After receiving no response to questions pertaining to ownership of the vials or what they were being used for, the police officers arrested the three men in the car for "criminally using drug paraphernalia" and issued two summonses to the driver; one for failing to stop at a stop sign and the other for failing to yield to a pedestrian in a crosswalk.¹⁴⁵

The police officers searched the vehicle and found 200 empty vials and matching caps, a false bottomed bread crumb container, and a carton of hot chocolate in the shopping bag.¹⁴⁶ Upon removal of the false bottom in the bread crumb container, the police officers found a bag of crack cocaine.¹⁴⁷ The "[d]efendant [Chapman] then volunteered that he came to buy the cocaine for someone else and his two companions had nothing to do with 'it.'"¹⁴⁸ At the precinct, after he was read his *Miranda* rights, the defendant denied selling crack.¹⁴⁹ However, he admitted to

140. *Id.*

141. *Id.*

142. *Id.*

143. *Id.*

144. *Id.*

145. *Id.* at 243, 654 N.E.2d at 1234-35, 630 N.Y.S.2d at 986-87.

146. *Id.* at 243, 654 N.E.2d at 1235, 630 N.Y.S.2d at 987.

147. *Id.*

148. *Id.*

149. *Id.*

buying the crack on 140th Street and maintained that he bought it for someone else.¹⁵⁰

People v. Yancy

While directing gridlock traffic, a police officer noticed that “[t]he driver of a white Nissan would not make eye contact” with him.¹⁵¹ Thus, in order to tell the driver to move the car, the police officer approached the car on foot.¹⁵² As he passed the back seat, he noticed an open paper bag.¹⁵³ The police officer directed the defendant to pull over to the curb while he radioed for assistance.¹⁵⁴ Once “back up” arrived, the police officer ordered the two men in the car to step out and inquired as to what was in the bag.¹⁵⁵ The defendant, Yancy, responded, “‘bottles.’”¹⁵⁶ The police officer, familiar with drug lingo, translated that this meant vials used for transporting crack cocaine, and as a result, the officer arrested the men.¹⁵⁷ The police officers then searched the car and found an “Alf” doll filled with cocaine and paper to package it.¹⁵⁸ In addition, the paper bag contained vials and matching vial caps.¹⁵⁹

The defendant plead guilty to attempted criminal possession of a controlled substance and the trial court sentenced him to three to six years.¹⁶⁰ The defendant made a motion to vacate the sentence because the proper sentencing procedure had not been observed.¹⁶¹ The New York Court of Appeals granted the motion and vacated the sentence.¹⁶² However, the prosecutor “filed a predicate offender statement which listed a New Jersey robbery

150. *Id.*

151. *Id.* at 244, 654 N.E.2d at 1235, 630 N.Y.S.2d at 987.

152. *Id.*

153. *Id.*

154. *Id.*

155. *Id.*

156. *Id.*

157. *Id.*

158. *Id.*

159. *Id.*

160. *Id.* at 245, 654 N.E.2d at 1235, 630 N.Y.S.2d at 987.

161. *Id.*

162. *Id.*

conviction.”¹⁶³ The court determined that the New Jersey crime constituted a felony in New York and the defendant was resentenced to his original three to six years.¹⁶⁴

Generally, searches without a warrant are “per se unreasonable.”¹⁶⁵ However, one well recognized exception to this rule applies to automobiles. For example, in *California v. Carney*,¹⁶⁶ the Supreme Court held that the exception that automobile searches do not require a warrant applies to movable mobile homes.¹⁶⁷ In *Carney*, the Court reasoned that warrantless searches of automobiles are acceptable for two reasons.¹⁶⁸ First, this exception is recognized based on the fact that automobiles are mobile and as a result, a high probability exists that contraband would “disappear.”¹⁶⁹ Second, a person’s reasonable expectation of privacy is diminished when traveling in an automobile.¹⁷⁰ Furthermore, in *California v. Acevedo*,¹⁷¹ the United States Supreme Court held that a container located inside an automobile is subject to a warrantless search as long as law enforcement officers have probable cause to believe that contraband or evidence is contained within it.¹⁷²

In *People v. Belton*,¹⁷³ the New York Court of Appeals held that warrantless searches of a vehicle and any closed containers within the passenger section of the vehicle are permitted as long as a valid arrest has been made.¹⁷⁴ In *Belton*, the defendant was

163. *Id.* at 245, 654 N.E.2d at 1235-36, 630 N.Y.S.2d at 987-88.

164. *Id.*

165. *Id.* at 245-46, 654 N.E.2d at 1236, 630 N.Y.S.2d at 988.

166. 471 U.S. 386 (1985).

167. *Id.* at 388. Law enforcement officers searched a mobile home after receiving information about what was inside, giving rise to probable cause. *Id.* at 388-89. The Court held that this search was reasonable and a warrant was not needed because there was “abundant” probable cause that the defendant was distributing drugs from the vehicle. *Id.* at 395.

168. *Id.* at 392-93.

169. *Id.*

170. *Id.*

171. 500 U.S. 565 (1991).

172. *Id.* at 580.

173. 55 N.Y.2d 49, 432 N.E.2d 745, 447 N.Y.S.2d 873 (1982).

174. *Id.* at 51, 432 N.E.2d at 746, 447 N.Y.S.2d at 874.

arrested for unlawful possession of a controlled substance when a state trooper pulled the car over for a traffic infraction.¹⁷⁵ When the police approached the car, they smelled marijuana and noticed rolling papers¹⁷⁶ on the floor of the car.¹⁷⁷ The police officers arrested the defendants and searched the car where they found a black leather jacket that contained cocaine in a zippered pocket.¹⁷⁸ The court found that the search was reasonable because probable cause leading to a valid arrest authorizes a warrantless search.¹⁷⁹

In *People v. McRay*,¹⁸⁰ the court delineated the minimum level of proof necessary to show probable cause.¹⁸¹ The court noted several indications where probable cause may be found, including a police officer's experience and training in narcotics investigations, acts occurring in an area with high instances of drug trafficking, or a sighting of paraphernalia frequently used in drug trafficking.¹⁸² Using this standard for probable cause and the above standards to determine the permissibility of warrantless searches, the New York Court of Appeals, in *Yancy*, found

175. *Id.*

176. Also known as "wraps" or "sheets."

177. *Belton*, 55 N.Y.2d at 51, 432 N.E.2d at 746, 447 N.Y.S.2d at 874.

178. *Id.*

179. *Id.* at 54, 432 N.E.2d at 747-48, 447 N.Y.S.2d at 876. *See People v. Oden*, 36 N.Y.2d 382, 329 N.E.2d 188, 368 N.Y.S.2d 508 (1975). "Probable cause exists if the facts and circumstances known to the arresting officer warrant a prudent man in believing that the offense has been committed." *Id.* at 384, 329 N.E.2d at 190, 368 N.Y.S.2d at 511 (citations omitted). This means that if an officer notices that in the vehicle there is an article that the officer knows is used for illicit purposes or that there is the presence of "additional relevant behavior or circumstances," then the officer has sufficient probable cause to justify a warrantless search. *Yancy*, 86 N.Y.2d at 245, 654 N.E.2d at 1236, 630 N.Y.S.2d at 988. *See e.g.*, *Coolidge v. New Hampshire*, 403 U.S. 443, 446, (1971); *People v. DiStefano*, 38 N.Y.2d 640, 345 N.E.2d 548, 382 N.Y.S.2d 5 (1976); *People v. Spinelli*, 35 N.Y.2d 77, 315 N.E.2d 792, 358 N.Y.S.2d 743 (1974).

180. 51 N.Y.2d 594, 416 N.E.2d 1015, 435 N.Y.S.2d 679 (1980).

181. *Id.* at 601, 416 N.E.2d at 1018, 435 N.Y.S.2d at 682.

182. *Id.* at 601-02, 416 N.E.2d at 1018, 435 N.Y.S.2d at 682-83. In *McRay*, the court of appeals stated that "a glassine envelope is a 'telltale sign of heroin.'" *Id.* (citations omitted).

sufficient evidence indicating the existence of probable cause: the traffic infractions; the officers' observation of the vials in the bags; the police training in narcotics enabling them to deduce that the vials were not for personal use; and the defendants' responses and conduct during the routine traffic stop.¹⁸³ Without more, the court concluded that the probable cause for the "warrantless searches and seizures did not transgress the Federal or State constitutional prohibition against unreasonable searches and seizures."¹⁸⁴

The United States and New York State Constitutions both prohibit warrantless searches. However, this rule does not extend to searches of cars where a police officer has probable cause for an arrest. Under the Federal and New York Constitution, courts have held that the search of a car and the seizure of drug paraphernalia within it are reasonable so long as the police officer has probable cause.

SUPREME COURT, APPELLATE DIVISION

FIRST DEPARTMENT

People v. Laws¹⁸⁵
(decided February 28, 1995)

The People brought this action to appeal the grant by the Supreme Court, Bronx County, of a motion to suppress physical evidence and statements made by the defendant.¹⁸⁶ The People alleged that, under both the United States¹⁸⁷ and New York State

183. *Yancy*, 86 N.Y.2d at 246, 654 N.E.2d at 1236, 630 N.Y.S.2d at 988.

184. *Id.*

185. 208 A.D.2d 317, 623 N.Y.S.2d 216 (1st Dep't 1995).

186. *Id.* at 319, 623 N.Y.S.2d at 216-17.

187. U.S. CONST. amend. IV. The Fourth Amendment states in pertinent part: "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated . . . but upon probable cause" *Id.*